

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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M.C.,

Plaintiff,

COMPLAINT

-against-

DIOCESE OF ROCKVILLE CENTRE,

Index No. _____

Defendant.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, M.C., by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

Introduction

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when he was a minor, was sexually assaulted by a Priest of the Diocese of Rockville Centre, Father Robert Huneke ("Father Huneke"), at Christ the King Parish in Tampa, FL.

Parties, Jurisdiction and Venue

1. Plaintiff, M.C., is a citizen and resident of the State of Florida. Plaintiff brings this Complaint using his initials because of the sensitive nature of the allegations of child sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if his identity as a victim of child sexual abuse were to become publicly known.

2. Defendant, Diocese of Rockville Centre, (hereafter, the "Diocese"), is a religious institution and organization with principal offices located at 50 N Park Ave, Rockville Centre, NY 11571. The Diocese of Rockville Centre controls all Catholic religious, pastoral and educational functions in the Nassau and Suffolk Counties. The Diocese operates and controls approximately 133 parishes, 57 schools and 109 other facilities. The Diocese is a citizen and resident of the State of New York.

3. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

4. Personal jurisdiction lies over Defendant Diocese as it is present and domiciled in the State of New York.

5. Venue of this action lies in Nassau County as the Defendants resides in Nassau County.

Facts of Sexual Abuse

6. At all relevant times, Father Huneke was a priest of the Diocese of Rockville Centre, subject to the Diocese supervision and control. In the early 1980's, he was assigned by the Diocese of Rockville Centre to work as a Priest at Christ the King Church in Tampa, Florida. Father Huneke was a pedophile who preyed on children with whom he would come in contact in performing duties as a Catholic Priest.

7. In the approximate period 1969 - 74, Father Huneke was assigned to St. Dominic's parish in Oyster Bay, Long Island, a Catholic parish under the control and authority of the Diocese of Rockville Centre. There, he sexually molested a boy, John Salveson, over a period of years beginning when he was age 13. Some years later, this boy, then an adult working in the mental health field, wrote a letter to then Bishop of Rockville Centre John McGann, dated February 13,

1980, disclosing to him the sexual molestation by Father Huneke. Mr. Salveson believed that providing such notice to the Bishop would result in corrective action and prevent Father Huneke from sexually abusing boys in the future.

8. In response to this notice, Bishop McGann met with Father Huneke, who was then working in his assignment at Christ the King parish in Tampa, Florida. After this meeting, Bishop McGann wrote to Mr. Salveson, by letter dated August 1, 1980, advising him as follows:

Father [Huneke] acknowledged his responsibility and assured me that he has been receiving counseling and spiritual direction and that this matter has not been a problem for over a period of approximately two years. He seemed relieved to be able to discuss the matter with me. ... I will keep all this material in Father's confidential folder and I hope and pray that this is a closed chapter.

Bishop McGann took no other action against Father Huneke, whom he allowed to continue to minister to children at Christ the King parish.

9. Mr. Salveson was alarmed by this response, as it indicated that there were other victims of sexual abuse by Father Huneke and that significantly more needed to be done to assure that he did not sexually abuse children. Mr. Salveson wrote a follow up letter to Bishop McGann dated September 2, 1980, expressing his grave concerns and suggesting specific remedial action, particularly regarding Father Huneke's present assignment in Tampa at Christ the King Church:

As I understand it, you have accepted Father Huneke's word that he has not been sexually abusive recently, and that he is receiving counseling and spiritual direction for his problem. Personally, I am skeptical of Father's word.

Father also claims that this matter has not been a problem for a period of approximately two years. This means that I was not the only person abused by Father Huneke. In fact, it means that he continued to be sexually abusive for two years beyond his abuse of me. Obviously, there are other victims.

All of these factors concern me very much. I honestly feel that more than Father's word is needed to back up his presentation of the facts. I suggest

that you request a letter from his psychotherapist outlining Father's presenting problem and confirming his involvement in therapy.

I also feel strongly that something needs to be done regarding Father's placement in Florida. There is no one there who is aware of Father's problem and its history. Consequently, there are no checks on either his behavior or the appropriateness of his assignments. He could easily continue to be sexually abusive.

Bishop McGann at first did not respond to Mr. Salveson. In further correspondence in 1981 he refused to take any corrective action. In a letter dated April 15, 1981, Bishop McGann declared that he had "neither the right nor the responsibility to bring this matter to the attention of the Diocese [of St. Petersburg] in which Father [Huneke] is serving."

10. In or about 1981, Plaintiff, M.C., lived with his family in Hillsborough County, Florida. Through scouting Plaintiff became friends with a boy his age, Anthony, who attended mass regularly with his family at Christ the King Church. Plaintiff was nine years old. He attended Sunday mass with Anthony and his family, including on at least two occasions when Plaintiff slept over at their house.

11. Father Huneke was a charismatic and friendly Priest, who was well liked by parishioners. He would greet parishioners one-on-one after mass. When Father Huneke greeted Plaintiff, he grabbed and fondled his penis, over his clothes, while smiling and making small talk with Plaintiff. Plaintiff was shocked, surprised and confused by this conduct. It seemed to happen quickly, and he did not resist.

12. A few weeks later, the same thing happened. Father Huneke greeted Plaintiff after mass by grabbing and fondling his crotch while speaking to him. Plaintiff again, still not comprehending Father Huneke's conduct, pretended that nothing had happened. In this manner, Father Huneke groomed Plaintiff for sexual abuse.

13. Sometime thereafter, in the period Fall, 1981, to Spring, 1982, Father Huneke orally sodomized Plaintiff. Plaintiff recalls being in shock and terrified. It was in a dark room. Father Huneke, with his pants down around his ankles, thrust his penis in Plaintiff's mouth while masturbating himself, at one point with his hand on the back of Plaintiff's head. He ejaculated in Plaintiff's mouth.

14. Upon information and belief, Father Huneke was at all relevant times a serial sexual predator who sexually abused multiple boys.

15. At all relevant times, the Diocese knew or in the exercise of reasonable care should have known that Father Huneke had a propensity for the conduct which caused injury to Plaintiff, in particular, that he had a propensity to engage in the sexual abuse of children.

16. At all relevant times, it was reasonably foreseeable to the Diocese that Father Huneke would commit acts of child sexual abuse or assault on a child.

17. At all relevant times, the Diocese knew or should have known that Father Huneke was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and/or protection.

18. With such actual or constructive knowledge, the Diocese provided Father Huneke unfettered access to Plaintiff and gave him the opportunity to commit foreseeable acts of child sexual abuse or assault.

Diocese's Concealment of Acts of Sexual Abuse by Priests

19. The Bishop of the Diocese at all relevant times knew that Priests of the Diocese, under his supervision and control, were grooming and sexually molesting children with whom the Priests would have contact in their ministry and pastoral functions. At all relevant times, the

Bishop knew that this was a widespread, ubiquitous and systemic problem in the Diocese, involving many Priests and numerous victims.

20. Despite receiving credible allegations of child sexual abuse against clergy, the Diocese acted to conceal these allegations in an effort to avoid scandal and accountability. Even still, the Diocese refuses to release the names of priests who have been credibly accused of sexual abuse.

21. This concealment was in accordance with a policy of the Diocese, as agent, and the Holy See, as principal. In 1922, the Holy See released a confidential document to its Bishops and other officials of Catholic organizations regarding the handling of cases of solicitation of sex in the confessional. This document mandated a specific procedure for Holy See's agents, including the Bishop of the Diocese, to use when a cleric abused children using the confessional. This document required strict secrecy. The 1922 document showed that the Holy See and its agents were fully aware that there was a systemic problem of clergy sexually molesting children using the confessional.

22. In 1962, the Holy See released the confidential document, *Instruction on The Manner of Proceeding in Cases of Solicitation* (The Vatican Press, 1962) (hereinafter referred to as "*Crimen Sollicitationis*"). The heading of the document states, "From the Supreme and Holy Congregation of the Holy Office To All Patriarchs, Archbishops, Bishops and Other Diocesan Ordinaries 'Even of the Oriental Rite,'" and contains specific instructions regarding the handling of child sex abuse by clergy. According to the document itself, it is an "instruction, ordering upon those to whom it pertains to keep and observe it in the minutest detail." *Crimen Sollicitationis* at paragraph 24.

23. The 1962 document reinforced that the Holy See and its agents to whom the documents was directed had knowledge that there was a systemic problem of Catholic clergy sexually molesting children using the confessional.

24. At the same time, the Holy See was involved in the formation of secret facilities in the United States where sexually offending clergy would be sent for short periods of time. In 1962-63, Fr. Gerald Fitzgerald reported to the Pope on the problem of abuse of children by clergy and expressed concerns if these priests were returned to active duty.

25. Fr. Fitzgerald's reports were kept secret under the Holy See's standing policy to avoid scandal at all costs. Its recommendation was ignored, however, and instead the Holy See made a choice to return known offending priests to active duty. At this point, it is clear that the Holy See and its agents, including the Diocese, knew they had a widespread problem of clergy sexually molesting minors, and they participated in the creation and the operation of facilities in the United States where sexually offending clergy could be sent before they were moved to another parish to work and potentially abuse again.

26. The Holy See's policy of secrecy under penalty of immediate removal from the organization (excommunication) for all involved in an accusation of child sexual abuse created a shroud of secrecy insulating Priests from consequence. Through this policy and others, the Holy See and its agents, including the Diocese, knowingly allowed, permitted and encouraged child sex abuse by the Diocese's Priests.

27. The Holy See mandates secrecy for all those involved, including agents and itself, in handling allegations of sexual abuse. Penalties for child sexual abuse include an order to move offending priests to other locations once they have been determined to be "delinquent." In response to allegations, the document mandates that supplementary penalties include: "As often

as, in the prudent judgment of the Ordinary, it seems necessary for the amendment of the delinquent, for the removal of the near occasion [of soliciting in the future], or for the prevention of scandal or reparation for it, there should be added a prescription for a prohibition of remaining in a certain place.” *Crimen Sollicitations* at paragraph 64. Under this policy of secrecy and transfers or reassignments, all involved are threatened with excommunication and, thus, damnation, if they do not comply.

28. The policy of secrecy and the severest of penalties for its violation were reiterated in documents issued by officials of the Holy See for the benefit of its agents, including the Bishop of the Diocese, in 1988 and 2001.

29. The policies and practices of the Diocese designed to conceal sexual abuse by clergy and protect it from scandal and liability included the following:

- (a) transfer and reassignment of clergy known or suspected to abuse minors to deflect attention from reports or allegations of child sexual abuse;
- (b) concealing from parishioners and even other clergy that a priest reassigned to their parish posed a danger of sexual abuse to children;
- (c) failing to alert parishioners from the Priest’s prior assignments that their children were exposed to a known or suspected child molester;
- (d) failing to report sexual abuse to criminal authorities; and
- (e) otherwise protecting and fostering the interests of abusive clergy to the detriment of the victims and the community, for the purpose of avoiding scandal and public scrutiny.

30. Indeed, the policy of secrecy and lack of consequences for the sexual abuse of children was perceived as a perquisite by clergy sex abusers. The Holy See and Diocese believed it to be perceived as a perquisite, which it condoned and used to its advantage in controlling Priests.

31. Plaintiff was in a zone of foreseeable harm as a child engaged in Catholic activities in close proximity to or with Catholic clergy.

32. The Diocese was in the best position to protect against the risk of harm as it knew of the systemic problem and foreseeable proclivities of its Priests to sexually abuse children.

33. At all relevant times, while the Diocese had special and unique knowledge of the risk of child sexual abuse by its Priests, such Priests who would prey on children were outside the reasonable contemplation of the Catholic community and families who trusted Priests to have access to their children.

34. Plaintiff and his parents had no opportunity to protect Plaintiff against a danger that was solely within the knowledge of the Diocese.

35. The Diocese knew a significant percentage of Priests were using their status and position to identify, recruit, groom and sexually assault vulnerable children in the Church.

36. The Diocese concealed this knowledge and failed to adopt policies and procedures that would protect children and reduce the risk of child sexual abuse by its Priests.

37. All children engaging in Catholic activities within the Diocese, or future Dioceses in which priests were reassigned, were in this manner placed at risk of child sexual abuse.

38. The Diocese failed to warn Catholic families that their children were at risk of sexual abuse by Priests.

39. Upon information and belief, after Plaintiff was abused, the Diocese engaged in a plan and scheme pursuant to the Holy See's secrecy policies and practices to avoid discovery of

Father Huneke's child sexual abuse and the Diocese's wrongful conduct which facilitated the sexual abuse of young children.

Nature of Conduct Alleged

40. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

41. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendant acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with Father Huneke, to retain Father Huneke in ministry with unfettered access to children.

COUNT I
NEGLIGENCE

42. Plaintiff repeats and realleges Paragraphs 1 through 42 above.

43. At all material times, the Diocese was in a special relationship with Plaintiff as a Catholic with whom one of its ordained Priests would have contacts in the course of engaging in Catholic activities. Based on this special relationship, the Diocese owed Plaintiff a duty of reasonable care.

44. The Diocese owed a duty of reasonable care to Plaintiff by virtue of the fact that Plaintiff attended a parish in which Father Huneke was transferred to work at by the Diocese. Thus, it was foreseeable to the Diocese that Plaintiff was part of the limited class of vulnerable minors

who would come into contact with Fr. Huneke at a Catholic parish.

45. The Diocese and Father Huneke were in a special relationship of employer – employee, when the Diocese knew or should have known that Father Huneke posed a danger to children in his role as a Catholic Priest, and thus the Diocese owed a duty to control Father Huneke to prevent foreseeable harm.

46. The Diocese owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of Father Huneke.

47. The Diocese owed a duty to exercise reasonable care in hiring, retention and supervision of Father Huneke.

48. The Diocese owed a duty to exercise reasonable care in transferring or assigning Father Huneke when it knew or should have known that he posed a danger to children in his duties and role as a Catholic Priest.

49. The Diocese owed to duty to warn parishioners at the parishes in which they transferred Father Huneke to that he was previously accused of molesting children.

50. The Diocese owed a duty to exercise reasonable care in the hiring, retention and supervision of Father Huneke.

51. The Diocese breached these duties by (i) hiring Father Huneke as a Priest when it knew or should have known of his sexual proclivities for children; (ii) at all relevant times, retaining and failing to adequately supervise Father Huneke as an active Priest of the Diocese; and (iii) granting and maintaining Father Huneke faculties as Priest without making any warning or notice of his perverse sexual proclivities to the Catholic faithful who would have contacts with Father Huneke (iv) failing to warn parishioners at Father Huneke's future parishes that he was

accused of molesting children.

52. At all relevant times, the Diocese had inadequate policies and procedures to protect children who would encounter their Catholic Priests in the course of their duties.

53. As a direct and proximate result of the Diocese's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

54. The Diocese's acts and conduct shows a reckless or willful disregard for the safety and well-being of A.B. and other children.

WHEREFORE, Plaintiff demands judgment against the Diocese for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

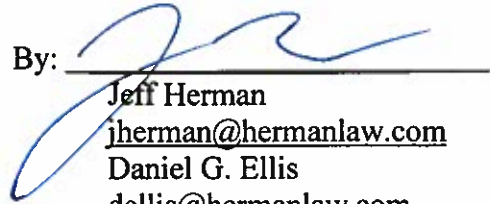
DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this action.

Dated: New York, New York
September 25, 2019

Respectfully submitted,

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